



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

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GOVERNOR

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SECRETARY

**North Carolina Board of Transportation  
Environmental Planning and Policy Committee  
Meeting Minutes for May 3, 2006**

A meeting of the Environmental Planning and Policy Committee (EPPC) was held May 3, 2006 at 8:30 AM in the Board Room (Room 150) of the Transportation Building. Board Member Nina Szlozberg chaired the meeting. Other Board of Transportation members that attended were:

Tom Betts	G. R. Kindley
Mac Campbell	Arnold Lakey
Bob Collier	Andrew Perkins
Marion Cowell	Nina Szlozberg
Nancy Dunn	Alan Thornburg
Doug Galyon	Lanny Wilson
Larry Helms	

Other attendees included:

Lyndo Tippet	Gail Grimes	Mike Mills	Roy Shelton
Tad Boggs	Rob Hanson	Barry Moose	Amy Simes
Donnie Brew	Phil Harris	Sandy Nance	Greg Smith
Clarence Coleman	M. L. Holder	Ken Pace	Jay Swain
Judith Corley-Lay	Julie Hunkins	M. A. Pettyjohn	Cheryl Teeters
Donna Dancausse	Pat Ivy	Ellis Powell	Dan Thomas
Eddie Dancausse	Daniel Keel	Johanna Reese	Greg Thorpe
Dan Devane	Neil Lassiter	Anthony Roper	Steve Varnedoe
David Farren	Don Lee	Bill Rosser	Don Voelker
C. A. Gardner	Becky Luce-Clark	Andrew Sawyer	Marcus Wilner
Terry Gibson	Art McMillan	Derry Schmidt	Debbie Barbour
Ricky Greene	Ehren Meister	Joel Setzer	

Ms. Szlozberg called the meeting to order at 8:30 AM and circulated the attendance sheet. Ms. Szlozberg accepted a motion to approve the meeting minutes from the April 2006 committee meeting. The minutes were approved as presented.

Ms. Szlozberg began by commenting it is sometimes important to look back in order to look ahead, and that is what the presentation will accomplish. Ms. Szlozberg introduced Mr. Len

Sanderson, NCDOT State Highway Administrator, and Mr. John Sullivan, FHWA NC Division Administrator to discuss the background and status of current agency initiatives.

Mr. Sanderson began by reviewing the three goals of the Interagency Leadership Team (ILT), which is comprised of members from ten agencies: NC Department of Commerce, NC Department of Environment and Natural Resources, NC Wildlife Resources Commission, NC Department of Cultural Resources, NC Department of Transportation, Federal Highway Administration, US Fish and Wildlife Service, US Army Corps of Engineers, US Environmental Protection Agency, and National Marine Fisheries Service. The ILT's first goal is to develop a comprehensive Geographic Information System (GIS); the second, to connect land use planning more closely with transportation planning; and the third, to improve the efficiency and effectiveness of the Merger 01 process.

Following the establishment of the Highway Trust Fund in 1989, NCDOT did a wonderful job developing a process for developing projects and preparing documents according to NEPA requirements. However, in the mid 90's, we ran into some barriers quantifying environmental impacts and providing mitigation. In general, in order to obtain needed environmental permits, we would make commitments to follow through with the mitigation implementation as projects were being constructed. However, we often failed to do this in a timely manner. A significant contributing factor here was that the science and process of creating and restoring wetlands was not yet mature; it is still continuing to emerge and develop. We were told that we had to have a plan relating to mitigation, and there had to be an agreement before we got an environmental permit. Today we have a mitigation plan and everything has to be identified and either in the ground or preparations made to implement mitigation.

So, in 1997, everything came to a head. There was little interagency trust at that time. Several issues existed: a lack of understanding about how to successfully create and restore wetlands, a lack of understanding of stream impacts and how to successfully mitigate impacts, and understanding the indirect and cumulative impacts from development. To say that the relationship between DOT and the resource agencies was poor is not an overstatement. There had to be fundamental changes. We needed to marry the NEPA process and Section 404 process, and we did so into what is today known as Merger 01.

Three things grew out of the Merger 01 process improvement initiative. First, we now know that when we go through the process of developing a project using Merger 01, we are fairly sure that the project will be permitted. Second, recognizing that mitigation is in the critical path, we developed a way to get the mitigation done before the project becomes critical in terms of letting. Thus was born the idea of the Ecosystem Enhancement Program (EEP). Third, we are working to integrate long range planning with the NEPA process such that there is a seamless transfer of information between the two processes, thus reducing the number of alternatives studied, eliminating duplicative studies, and creating more efficiencies.

So, there are numerous initiatives and programs that are ongoing. Mr. Sanderson summarized that he had spoken about some of the barriers which existed at a very low point for NCDOT, and that fundamental changes were needed in the way we conducted our business.

Mr. Sullivan will then discussed his FHWA perspective of working closely with NCDOT during some process improvements, and some of the challenges we still have today.

Mr. Sullivan explained that he intended to use his experience with the states of Virginia, Maryland, South Carolina, and Alabama to contrast the status of environmental initiatives among them and NC. To emphasize the caliber of NC's environmental activities, he commented that several years ago the FHWA designed a Southern Environmental Leadership Seminar intentionally selected to be hosted in NC in order to showcase the environmental initiatives occurring here between and 1997 and 2003.

Mr. Sullivan focused on Highway Operations and how it institutionalized environmental excellence with program delivery and all other parts of the program. A great example of environmental excellence in operations is the 'NC Best Management Practices for Construction and Maintenance Activities' document which FHWA distributes around the country. NCDOT's Erosion and Sedimentation Control Program is a successful program which is recognized nationally.

Mr. Sullivan then talked about the Ecosystem Enhancement Program (EEP). North Carolina is one of the only states that has a statewide comprehensive approach to mitigation. Most mitigation banks are regionalized or project-specific. This program started in 2003. In 2005, EEP was providing mitigation for permits. Zero projects were delayed due to lack of mitigation. EEP is currently developing local watershed plans which match mitigation needs to local watershed needs.

One big accomplishment not widely publicized was in 1995 when the EPA increased the Air Quality standard from a 1-hour to an 8-hour standard. So after 1995, North Carolina's non-attainment areas increased from 7 to 32 counties. Nevertheless, not one project was delayed due to an air quality conformity issue dealing with this change in the standards. This was an amazing accomplishment.

Another 'critical path issue' involved endangered mussel species. The limited availability of appropriately credentialed biologists prevented NCDOT from completing the necessary surveys to determine if the mussels were in a particular watershed. By working together with the US Fish and Wildlife Service and the North Carolina Wildlife Resource Commission, we identified a method for qualified biologists to conduct screening surveys in the watersheds for mussels. If mussels were found, then the licensed biologists would perform the in-depth survey required to determine if endangered mussels were present. This screening process relieved the backlog considerably, as 79% of the screenings required no additional work.

Historic preservation is also an important issue. Federally funded projects must be coordinated to determine if project activity will affect an historic property. Several methods were identified to streamline projects which had very little impact on historic properties. First, Programmatic Agreements were developed to apply to those categories of projects unlikely to have an effect on historic properties. Second, NCDOT began the development of predictive modeling technology with GIS data to predict occurrences of historic sites and avoid them. Third, NCDOT worked with other agencies to eliminate or minimize repeated effort through improved and timely

communications and interagency involvement. Fourth, NCDOT has been working with other agencies involved in historic preservation to ensure that staff resource needs and qualifications are met.

Mr. Sullivan then addressed the significance of the ILT. The big benefit is the coming together of leaders from different agencies to jointly manage the Merger 01 process as well as other environmental initiatives. One challenge will be to stick to and implement the activities and strategies within the strategic plan. There will be staffing and financial challenges. But if we hold true and accomplish this plan we will have a better North Carolina, better transportation, and more efficient project delivery.

Mr. Sullivan expounded on the Merger 01 process, which is a collaborative transportation and environmental decision-making process. It involves taking the permits from the back end of project development, right when we are getting ready to let a project, and merging it in with the environmental and engineering analysis that is done under NEPA. The redesign of that process was completed and signed by the sponsors in 2001. The ILT identified additional efficiencies in further clarification of roles and responsibilities and in establishing a standard operating procedure for participants, as well as elaborating on the conflict resolution process.

It is important, but not easy, to develop measures of success. There are several different ways one can view success -- time, budget, and environmental outcomes. The ILT will develop measures that we all agree are indicators of success and will help us drive and manage the process. Once the measures are developed and data is collected, the ILT will review this information annually to determine if we need to make further improvements or focus on certain segments of the Merger process.

Mr. Sullivan talked about the integration of long range planning and project development. He commented that although there is a lot of variation among projects, it generally takes 6 to 18 months to get agreement on purpose on need. What the integration initiative does is establish a process identifying the requirements for documentation, data, and stakeholder involvement, so that we can document the transportation deficiencies and need for transportation improvements in the planning process, and link it and use it for the development of the purpose and need statements in the NEPA analysis. If we are successful just on that one element - purpose and need - we can save from 6 to 12 months on our widening and new location projects. However, there are even greater efficiencies getting into the selection and analysis of different alternatives. This part of the process is designed to retain linkages to land use planning, which will lessen the amount of work needed to determine indirect and cumulative impact because the foundation of land use plans will be readily available. This will lead to a better process because we will have the problem statements articulated as solutions, thus getting the stakeholder involvement early and addressing their concerns early in the planning process as well as the NEPA process.

Mr. Sullivan commented that these are the highlights of 2003 to the present that he has witnessed and that there are many more are ongoing. FHWA appreciates the leadership NCDOT has exhibited not only for your state but also for the nation. He then opened the floor for questions.

Mr. Larry Helms asked if you have a project with no direct impacts and no indirect impacts, then how can the cumulative impacts be a deciding factor?

Mr. Sullivan answered that the cumulative effects have to be considered and presented in our environmental analysis. And the cumulative effects can be a combination of the effects of this project in addition to other projects built in the past and reasonably foreseeable to be built in the future.

Mr. Helms referred to a recent presentation by Mr. Sullivan on the Monroe Bypass project stating there was no direct or indirect impact. As he understand it, cumulative is what will happen regardless of the roads. He asked Mr. Sullivan to explain for the BOT members what is happening with the Monroe Bypass project.

Mr. Sullivan responded that for the Monroe Bypass presentation, FHWA did state that there was not a direct effect resulting from that project. However, they did state that there were indirect effects, and FHWA has a report that they referenced that there would be regional development resulting from that project that would occur within that watershed. That was one where the indirect effects in Duck Creek were beneficial - there would be less development as it was drawing development to the east. But FHWA did state that there was a negative indirect effect to Goose Creek because there were mussels in critical habitats in Goose Creek. And because there was an indirect effect, FHWA was required to consult with the US Fish and Wildlife Service.

Mr. Helms asked if they quantified what the indirect effects were. He then clarified his question explaining that there will be 5,000 - 10,000 houses built regardless of what happens. Indirect effects apply to about 200 houses out of 5,000, which is negligible. He suggested tht cumulative impacts are being used to stop a road project, and has been used to stop a road for the past ten years.

Mr. Sullivan replied that land use plans would be helpful in that situation. Understanding the growth helps us know how to deal with about the additional runoff, which is an indirect effect with this project. The additional runoff will be induced from future development. We are currently working with local residents to put ordinances in place that will possibly eliminate those indirect effects.

Mr. Helms asked if FHWA could assure us that if there are no direct and no indirect impacts that a project can't be held up for cumulative impacts,

Mr. Sullivan replied that under NEPA we have to evaluate the effects of a project - direct, indirect, and cumulative. Once we document those and make a decision, we can move forward. He can't, however, guarantee that there won't be a challenge. But, when we are talking about the Endangered Species Act, the definition of "cumulative impact" changes, as does the definition of "direct effect." So we are dealing with two different laws. When we are dealing with Threatened and Endangered Species Act, we have different criteria we have to apply. If there is a "likely to adversely effect" determination, then we have to consult with the US Fish and

Wildlife Service and they get engaged in the decision making process. We can't guarantee how they are going to make their decisions.

Ms. Nancy Dunn stated that North Carolina is being recognized nationally for its leadership in collaboratively working together with other state and federal agencies. EEP is one such example. Ms. Dunn asked what barriers exist to our continuing to be leaders in this and continuing to make progress.

Mr. Sullivan replied that one barrier is project delivery. We have heard a concern about how long it takes to get through the process. There are many stakeholders involved in transportation decision-making. Not only the resource agencies but the contractors, the legislatures, and all of them have different expectations of us. One big challenge is developing measures to communicate effectively to all parties about the effectiveness of this process.

Ms. Szlozberg asked if John could comment on the tools needed to continue to our work in improving the environmental and transportation decision-making process and how the Board of Transportation could support them.

Mr. Sullivan replied that there are two big challenges with every process that is re-engineered. Technology and staffing resources. Another challenge is staff development. Mentoring and development programs have downsized. So you take a qualified college grad and throw them into the delivery process, the processes and procedures must be clearly defined and documented for them to be successful.

Mr. Sanderson commented that Mr. Sullivan focused on proactive achievements. He discussed improving processes in terms of project delivery. He mentioned that balancing project delivery with protecting the environment is important. He also talked about trying to manage our processes and the training of the all the people (not just DOT) involved in collaborating to make the process work.

Mr. Sanderson noted that obtaining sufficient resources is critical. People are needed to work on and prepare for these process improvements and the efficient development of the process improvement itself. The technology piece is critical. Technology can help us be more efficient. A perfect example is the GIS. Funding is a real issue. This is where we have to be smart in determining the highest and best use of our money. Where we want to go as an organization is ILT Goal 2 – the integration of land use and transportation planning.

Ms. Dunn added that she recalled a presentation and request to the board several years ago for funding to improve traffic signals across the state. She then requested a similar business case be presented the Board of Transportation for GIS.

Mr. Sanderson agreed to do provide this to the Board at their next meeting.

Ms. Dunn asked what is the best way for the Board to get engaged and support initiatives which are not directly related to construction projects.

Ms. Szlozberg suggested continuing to hear presentations from relevant speakers in order to stay engaged in the dialogue presented, as well as any business cases presented.

Ms. Szlozberg asked how all these initiatives synch up with our strategic long-range plan?

Mr. Sanderson replied that all these initiatives map back to the following goals:

- protection of the environment
- mobility necessary for the state
- economic opportunity, prosperity and vitality

Seeing no further questions, Ms. Szlozberg adjourned the meeting at 9:30 A.M.

The next meeting for the Environmental Planning and Policy Committee is scheduled for Wednesday, May 31, 2006 at 8:30 A.M. in the Board of Transportation Room (Room 150) of the Transportation Building.

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